

1 The Honorable John H. Chun  
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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

9 FEDERAL TRADE COMMISSION,  
10 Plaintiff,  
11 v.  
12 AMAZON.COM, INC., *et al.*,  
13 Defendants.  
14

No. 2:23-cv-0932-JHC

**PLAINTIFF'S RESPONSE TO  
DEFENDANT AMAZON'S  
OBJECTION TO FTC'S  
[PROPOSED] ORDER FINDING  
AMAZON.COM WITHHELD  
MATERIAL IN BAD FAITH**

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16 In response to Defendant Amazon's Objection (Dkt. #401) to the FTC's [Proposed]  
17 Order Finding Amazon.com Withheld Material in Bad Faith (Dkt. #399; the "Proposed Order"),  
18 the FTC states as follows:

19 1. The Proposed Order is not an improper reconsideration request. Rather, the  
20 Court, at oral argument, "direct[ed]" the FTC "to submit an order with the language that you're  
21 seeking" regarding bad faith. July 2, 2025 Hearing Tr. at 17:15-20. Additionally, although the  
22 FTC did not include a specific proposed finding of bad faith in its prior Proposed Order (Dkt.  
23 #286-1)—instead, as is typical of proposed orders, listing only the relief sought—the FTC's

Motion made clear bad faith was the basis for the proposed relief and provided supporting evidence. Dkt. #286 at 12-15. Then, in Reply, the FTC explained Amazon had no plausible alternative explanation for its conduct other than bad faith. Dkt. #334 at 2-6.

2. The FTC’s original Proposed Order *did* seek to bar Amazon from using any of the wrongfully withheld materials. Therefore, Amazon’s statement at the oral argument that the FTC already has received all of the relief it sought was false, and the FTC’s Proposed Order merely addresses this issue that arose at the hearing. July 2, 2025 Hearing Tr. at 18:21-19:14 (Amazon stating it agreed to “all of the relief that the FTC was seeking” and “everything that [the FTC] asked for”), 28:20-29:23 (Court questioning FTC regarding this point).

3. The Court's Sanctions Order (Dkt. #371) is not an *in limine* evidentiary ruling, and the Court, in any event, retains the authority to modify any order it enters (including the Proposed Order), provided Amazon meets its burden of showing why modification is warranted.

Dated: July 9, 2025

/s/ Evan Mendelson

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PLAINTIFF'S RESPONSE TO DEFENDANTS'  
OBJECTION TO PROPOSED ORDER  
RE: FINDING OF BAD FAITH  
Case No. 2:23-cv-0932-JHC - 2

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